

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ARTHUR A. BLUMEYER III,)
)
 Movant,)
)
 v.) No. 4:05CV1196(JCH)
)
UNITED STATES OF AMERICA,)
)
 Respondent.)

MEMORANDUM AND ORDER

This matter is before the Court upon the application of Arthur A. Blumeyer, a federal inmate in the Federal Corrections Institution in Texarkana, Texas (FCI-Texarkana), for a "Habeas Corpus Petition to Void Judgment of July 17, 1996 pursuant to F.R. Cv. 60(b)(4)" [Doc. #1].

The petition

Liberally construing the petition, petitioner claims that his criminal conviction is void under the Rooker-Feldman jurisdictional doctrine.

Discussion

The instant petition should be dismissed. This Court has twice considered this exact same claim on the merits: (1) in petitioner's motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255, Blumeyer v. United States, 4:98CV301(JCH) (E.D. Mo.) (Memorandum and Order, Doc. #36); and (2) in petitioner's criminal case by means of a post-conviction

motion, United States v. Blumeyer, No. 4:93CR68(JCH) (E.D. Mo.) (Memorandum and Order, Doc. #169). Both times, this Court has rejected petitioner's claim by finding that it has no legal merit. Furthermore, the Court notes that petitioner's Rooker-Feldman claim lacks legal merit no matter how he tries to style his action (e.g., Rule 60(b) motion, § 2255 action, writ of habeas corpus, etc.).

Additionally, even if the Court liberally construed the instant action as a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255, it should be denied. As noted above, petitioner previously sought and was denied relief pursuant to § 2255. Blumeyer v. United States, No. 4:98CV301(JCH) (E. D. Mo.). Petitioner has not received permission from the Eighth Circuit Court of Appeals to file a second or successive § 2255 motion. See 28 U.S.C. § 2255.

In accordance with the foregoing,

IT IS HEREBY ORDERED that the application for a "Habeas Corpus Petition to Void Judgment of July 17, 1996 pursuant to F.R. Cv. 60(b)(4)" [Doc. #1] is **DISMISSED**, with prejudice.

IT IS FURTHER ORDERED that petitioner's motion for appointment of counsel [Doc. #2] is **DENIED**.

IT IS FURTHER ORDERED that petitioner's motion for bond [Doc. #3] is **DENIED**.

IT IS FURTHER ORDERED that petitioner's request for

this Court to take judicial notice [Doc. #4] is **DENIED**.

An appropriate order shall accompany this memorandum and order.

Dated this 28th day of September, 2005.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE